

AMENDED IN ASSEMBLY JUNE 11, 2012

AMENDED IN SENATE MARCH 29, 2012

AMENDED IN SENATE MARCH 26, 2012

SENATE BILL

No. 987

Introduced by Senator Negrete McLeod

January 31, 2012

An act to amend Sections 20235, 21002, 21004, 22772, and 75502 of, and to add Sections 9351.4, 20065.5, and 75004.5 to, the Government Code, relating to public employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

SB 987, as amended, Negrete McLeod. Public employees' retirement.

(1) The Public Employees' Retirement Law (PERL) creates the Public Employees' Retirement System (PERS), which provides a defined benefit to its members based on age at retirement, service credit, and final compensation. Existing law also establishes the Judges' Retirement System and the Judges' Retirement System II which provide pension benefits to elected judges and the Legislators' Retirement System which provides pension benefits to elective officers of the state other than judges and to legislative statutory officers.

This bill would provide that all references to "spouse," "surviving spouse," or "marriage" in these provisions apply equally to a domestic partner or domestic partnership, as defined, and all rights and responsibilities granted to a spouse or surviving spouse shall be granted equally to a domestic partner, as specified.

(2) PERL defines "leave of absence" to include absence from state service because of illness that arose out of and in the course of employment and for which the member received temporary disability

benefits during the absence and did not receive full compensation, as specified. PERL authorizes a member who returns to active service following an employer-approved uncompensated leave of absence because of his or her serious illness to purchase service credit for that period of absence, as specified.

This bill would clarify that definition to include absence from state service because of illness or injury that arose out of and in the course of employment, and would authorize the purchase of service credit following an employer-approved uncompensated leave of absence because of the member's serious illness or injury.

(3) Existing law requires the Board of Administration of PERS to submit a quarterly review of the system's assets, as specified, to the Legislature. This review must include information on the time-weighted and dollar-weighted return on a 5-year, 3-year, 2-year, and 1-year basis.

This bill would eliminate the requirement that the quarterly review described above include information on the time-weighted and dollar-weighted return on a 2-year basis.

(4) Existing law defines an employee for purposes of the Public Employees' Medical and Hospital Care Act, which governs health care coverage available to public employees. This definition includes an employee who is employed by a contracting agency, including an officer or official of a contracting agency, as defined, if that officer or official participates in the employer's retirement system.

This bill would revise that definition to include only those employees who are employed by a contracting agency and participate in a publicly funded retirement system provided by that agency, as well as officers or officials of a contracting agency. The bill would also revise that definition by including officers or officials of a contracting agency regardless of whether those officers or officials participate in the employer's retirement system.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 9351.4 is added to the Government Code,
- 2 to read:
- 3 9351.4. All references to "spouse," "surviving spouse," or
- 4 "marriage" in this chapter apply equally to a domestic partner or

domestic partnership, as defined in Section 297 of the Family Code, and all rights and responsibilities granted to a spouse or surviving spouse shall be granted equally to a domestic partner to the extent provided by Section 297.5 of the Family Code.

SEC. 2. Section 20065.5 is added to the Government Code, to read:

20065.5. All references to “spouse,” “surviving spouse,” or “marriage” in this part apply equally to a domestic partner or domestic partnership, as defined in Section 297 of the Family Code, and all rights and responsibilities granted to a spouse or surviving spouse shall be granted equally to a domestic partner to the extent provided by Section 297.5 of the Family Code.

SEC. 3. *Section 20235 of the Government Code is amended to read:*

20235. (a) The board shall submit a review of this system’s assets to the Legislature on a quarterly basis. The report shall also be made available to all contracting agencies. The report shall do both of the following:

(1) Discuss this system’s portfolio and contain the following information:

(A) Concentration, current holdings at cost and market value, of equities.

(B) Concentration, current holdings at cost and market value, of fixed income instruments.

(C) Current holdings at cost and market value of real estate equities.

(D) Current holdings at cost and market value of mortgages.

(E) Options and forward commitments.

(F) Cash and cash equivalents.

(2) Disclose the following information on the rate of return of the fund by type of asset:

(A) Time-weighted return on a five-year, three-year, ~~two-year~~, and one-year basis.

(B) Dollar-weighted return on a five-year, three-year, ~~two-year~~, and one-year basis.

(C) Summary of performance of an alternative theoretical portfolio containing all investments and performance of comparable universes and other indexes.

(b) Upon written request from a contracting agency that does not participate in a risk pool, the board shall submit additional

1 quarterly reports to the contracting agency as described in this
2 subdivision. For the first quarter of the fiscal year, the report shall
3 be submitted within 120 days after the end of the quarter and shall
4 contain the agency's beginning balance for the fiscal year. For the
5 second and third quarters of the fiscal year, the report shall be
6 submitted to the contracting agency within 90 days after the end
7 of the quarter. For the fourth quarter of the fiscal year, the report
8 shall be submitted within 180 days after the end of the quarter and
9 shall contain the agency's balance as of the end of the fiscal year.
10 The report shall include, but need not be limited to, the following:
11 (1) All contributions made to the system by the contracting
12 agency and its employees. The contributions shall be reported as
13 the amounts paid and the amounts due from the contracting agency
14 for both employer contributions and employee contributions.
15 (2) All benefits paid by the system to members of the contracting
16 agency and their survivors and beneficiaries, including payments
17 on account of pension, death, and disability benefits, and
18 withdrawals of contributions. The benefits shall be reported as the
19 total monthly allowances paid to retirees, survivors, and
20 beneficiaries; the amount of total refunds paid; and the amount of
21 any other lump sums paid.
22 (3) An amount that represents any miscellaneous adjustments,
23 including transfers in and out.
24 (4) That quarter's portion of the agency's estimated share of
25 the system's administrative costs that shall be assessed at the end
26 of the fiscal year.
27 (5) The rate of return for the system during the quarter as
28 reported to the board by the investment committee.
29 (6) The estimated interest applied to the agency's account as
30 determined by the system. For purposes of this paragraph, the
31 "estimated interest applied" means the estimate of the annual net
32 earnings, as defined in Section 20052, and is subject to adjustment
33 at the end of the fiscal year based on the actual dollar-weighted
34 amount of investment return that shall be credited to the agency's
35 account for the fiscal year. The report for the fourth quarter of the
36 fiscal year shall also include the actual dollar-weighted amount of
37 investment return for the fiscal year that shall be credited to the
38 contracting agency's account.
39 (c) Upon written request from a contracting agency that
40 participates in a risk pool, the board shall submit to the contracting

1 agency quarterly reports that reflect the total contributions made
2 to the system by agencies in the risk pool, the total benefits paid
3 by the system with respect to the risk pool, the total estimated
4 share of administrative costs for the risk pool, and the total
5 estimated share of investment returns for the risk pool.

6 (d) A contracting agency requesting quarterly reports pursuant
7 to subdivision (b) or (c) shall pay a fee, in an amount determined
8 by the board, not to exceed one thousand five hundred dollars
9 (\$1,500) quarterly per agency while the manual process of
10 collecting the information is in use.

11 (e) Any report received by a contracting agency pursuant to this
12 section shall be made available by the agency to any employee
13 organization that represents the agency's employees and that
14 requests a copy of the report.

15 ~~SEC. 3.~~

16 *SEC. 4.* Section 21002 of the Government Code is amended
17 to read:

18 21002. A member who returns to active service following an
19 employer-approved uncompensated leave of absence because of
20 his or her serious illness or injury may purchase service credit for
21 that period of absence upon the payment of contributions as
22 specified in Sections 21050 and 21052. The purchase of additional
23 service credit pursuant to this ~~paragraph~~ *section* shall not reduce
24 the amount of service credit that the member is eligible to purchase
25 pursuant to this chapter. A member may purchase service credit
26 pursuant to this section for a leave of absence that occurred either
27 before or after the effective date of these provisions.

28 ~~SEC. 4.~~

29 *SEC. 5.* Section 21004 of the Government Code is amended
30 to read:

31 21004. "Leave of absence" also means absence from state
32 service because of illness or injury that arose out of and in the
33 course of employment and for which the member received
34 temporary disability benefits under the Labor Code during the
35 absence and did not receive full compensation as distinguished
36 from the disability benefits for the period of absence.

37 *SEC. 6. Section 22772 of the Government Code is amended to*
38 *read:*

39 22772. (a) "Employee" means:

1 (1) An officer or employee of the state or of any agency,
2 department, authority, or instrumentality of the state, including
3 the University of California.

4 (2) An employee who is employed by a contracting agency;
5 ~~including, but not limited to, and participates in a publicly funded~~
6 ~~retirement system provided by the contracting agency, or an officer~~
7 ~~or official of a contracting agency if the officer or official~~
8 ~~participates in the retirement system provided by the employer.~~

9 (3) An annuitant receiving a retirement allowance pursuant to
10 Section 21228 who is employed by a contracting agency.

11 (4) A teaching associate, lecturer, coach, or interpreter employed
12 by the California State University who is appointed to work in an
13 academic year classification for at least six weighted teaching units
14 for one semester, or for at least six weighted teaching units for two
15 or more consecutive quarter terms. This paragraph does not apply
16 to a state member employed by the California State University,
17 unless provided for in a memorandum of understanding reached
18 pursuant to Chapter 12 (commencing with Section 3560) of
19 Division 4 of Title 1 or authorized by the Trustees of the California
20 State University for employees excluded from collective
21 bargaining.

22 (5) All employees in job classes specified in subdivision (a) of
23 Section 14876.

24 (b) Except as otherwise provided by this part, “employee” does
25 not include any of the following:

26 (1) A person employed on an intermittent, irregular, or less than
27 half-time basis, or an employee similarly situated.

28 (2) A National Guard member described in Section 20380.5.

29 ~~SEC. 5.~~

30 *SEC. 7.* Section 75004.5 is added to the Government Code, to
31 read:

32 75004.5. All references to “spouse,” “surviving spouse,” or
33 “marriage” in this chapter apply equally to a domestic partner or
34 domestic partnership, as defined in Section 297 of the Family
35 Code, and all rights and responsibilities granted to a spouse or
36 surviving spouse shall be granted equally to a domestic partner to
37 the extent provided by Section 297.5 of the Family Code.

38 ~~SEC. 6.~~

39 *SEC. 8.* Section 75502 of the Government Code is amended
40 to read:

75502. (a) “Judge” means a justice of the Supreme Court or of a court of appeal, or a judge of a superior court, municipal court, or justice court who is first elected or appointed to judicial office on or after November 9, 1994, and is not a member of the Judges’ Retirement System pursuant to Chapter 11 (commencing with Section 75000). A retired judge does not acquire status as a judge for the purposes of this chapter by reason of designation as a temporary judge of, or assignment by the Chairperson of the Judicial Council to, any of these courts.

A former member of the Judges’ Retirement System under Section 75002 who withdrew his or her contributions upon leaving office, and who takes judicial office on or after November 9, 1994, becomes a member of the system existing under Chapter 11 (commencing with Section 75000) and does not become a member of the Judges’ Retirement System II. No person shall be a member of the Judges’ Retirement System II who is or ever has been a member of the Judges’ Retirement System pursuant to Chapter 11 (commencing with Section 75000).

(b) “System” means the Judges’ Retirement System II established by this chapter.

(c) “Service” means the period of time a judge received a salary and made contributions to the system by reason of holding office as a judge of any one or more of the courts of this state specified in subdivision (a), computed in years and fractions of years.

(d) “Final compensation” means the average monthly salary of a judge during the 12 months immediately preceding his or her retirement from or otherwise leaving judicial office and as limited by Section 75572.

(e) “Benefit factor” means the percentage used in calculating a judge’s monthly retirement allowance under Section 75522.

(f) “Contributions” means the accumulated deductions from the judge’s salary under Sections 75601 and 75602. References to payment to a judge of his or her contributions or to the determination of a judge’s and spouse’s shares in the contributions include both the contributions and interest thereon at the rates determined by the Board of Administration of the Public Employees’ Retirement System.

(g) “Salary” means the compensation received by a judge as the emolument of the office of judge, but does not include any additional compensation received by reason of designation as a

1 temporary judge or assignment by the Chairperson of the Judicial
2 Council or the additional compensation pursuant to Section
3 68203.1.

4 (h) “Board” means the Board of Administration of the Public
5 Employees’ Retirement System.

6 (i) “Fund” or “retirement fund” means the Judges’ Retirement
7 System II Fund established pursuant to Section 75600.

8 (j) All references to “spouse,” “surviving spouse,” or “marriage”
9 in this chapter apply equally to a domestic partner or domestic
10 partnership, as defined in Section 297 of the Family Code, and all
11 rights and responsibilities granted to a spouse or surviving spouse
12 shall be granted equally to a domestic partner to the extent provided
13 by Section 297.5 of the Family Code.

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